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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/004,664	12/03/2001	Michael Wayne Brown	AUS920010947US1	9674

7590 12/02/2004  
AMY PATTILLO  
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EXAMINER

UBILES, MARIE C

ART UNIT	PAPER NUMBER
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2642

DATE MAILED: 12/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/004,664

Applicant(s)

BROWN ET AL.

Examiner

Marie C. Ubiles

Art Unit

2642

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 August 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-57 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-57 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 10/12/2004.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Response to Amendment*

1. Applicant's amendment filed on August 19, 2004 has been entered. Claims 1-2, 5, 11-12, 15, 21-22, 29, 34, 41, 46, 53 and 55 have been amended. No claims have been cancelled. No claims have been added. Claims 1-57 are still pending in this application, with claims 1, 11, 21, 29, 41 and 53 being independent.

### *Claim Rejections - 35 USC § 103*

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1-3, 6, 9-13, 16, 19, 20-24, 27-29, 39, 41, 51, 53 and 57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Busey et al. (US 6,665,395).

As for claim 1, Busey et al. teaches a method that allows a customer to be moved up a queue or gain priority over other customer calls (i.e. "a method for caller position adjustment within a calling queue"), the features may be implemented in accordance to customer ranking according to a level of service – e.g. gold, platinum, overly-repetitive customer (i.e. "detecting, at a calling queue, an advancement token earned by a caller"). Busey et al. further teaches that customers who have emergency situations can be passed through to an agent (i.e. "...said caller is allowed control over said position within said calling queue")(See Col. 12, lines 31-42).

While Busey et al does not directly mention, "responsive to calculating a redemption value of said advancement token, adjusting a position of said caller

Art Unit: 2642

according to said redemption value within said calling queue"; it would have been obvious to one of ordinary skill to "calculate a redemption value" from the "advancement token" (or level of service) in order to perform the functions discussed above; since as it is known in the art several "gold" or "platinum" customer level of service provide rewards to preferred customers based on points accumulated by, for example, dollars spent over a certain period of time.

Claims 6, 9, 11, 19, 21, 24, 27, 29, 39, 41 and 53 are rejected for the same reasons applied to claim 1.

As for claim 2, Busey et al. teaches "detecting said advancement token earned by a caller by participating in a redemption of membership points during a prior call made before a current call by said caller positioned in a call queue.", as may be read from the moving up in a queue or prioritize a customers call based on customer's ranking based on level of service. The limitation specifying "...during a prior call made before a current..."

Claims 12 and 22 are rejected for the same reasons as claim 2.

As for claim 3, the limitation specifying "detecting said advancement token from a token advancement system communicatively connected to said calling queue" may be on the functions performed by the Web Center taught by Busey et al. (See, for example, Col. 11, line 16 through Col. 12, line 40).

Claims 13, 16, 23, 51 and 57 are rejected for the same reasons as claims 3.

As for claims 10, 20 and 28, it would have been obvious to one of ordinary skill in the art that Busey et al. system would advance the call a particular amount of time

Art Unit: 2642

within the call queue once the caller advances a particular number of positions within said calling queue, as queue positioning and expected wait time are intrinsically related.

4. Claims 4 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Busey et al. (US 6,665,395) in view of Walker et al. (US 6,178,240).

As for claim 4, it can be seen that Busey et al. lacks the step of receiving a call from a telephone switching system, wherein said call is waiting until a representative is available; adding said call to said calling queue, wherein said calling queue controls an order in which said call is transferred to said representative; enabling said caller associated with said call to select from a plurality of services available to said caller while waiting for said representative; and connecting said call to a particular service selected by caller from among said plurality of services.

Walker teaches, "A system for entertaining a caller placed in a queue of a call center is disclosed that allows the caller to access a plurality of entertainment options while on hold. The entertainment options permit the caller to (i) place a call to a third party while on hold; or (ii) access one or more premium entertainment services while on hold. A PBX/ACD receives the calls destined for the call center, and queues the calls when an appropriate attendant is not available. An IVRU prompts a caller for specific information and forwards the collected information to the PBX/ACD. The IVRU provides the caller with a menu of available entertainment options which can be accessed by the caller while the caller is on hold. The PBX/ACD establishes a

Art Unit: 2642

connection between the caller and the selected entertainment service. The call is then transferred to an available attendant with any data that may be required to process the call." (See *Abstract*).

It would have been obvious to one of ordinary skill in the art at the time the invention was made, to modify Busey et al. system by adding a plurality of entertainment options (i.e. plurality of services) that the caller can access while placed on a queue as taught by Walker, and thus in this manner maintain the customer entertained while waiting for its call to be answered by an attendant.

Claim 14 is rejected for the same reasons as claim 4.

5. Claims 7, 17, 25, 40 and 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Busey et al. (US 6,665,395) in view of Walker et al. (US 6,178,240).

Busey et al. disclose the system as claimed except for detecting when said caller is next in line to be answered within said calling queue; and transferring a next in line notification to said caller at a token advancement system.

Walker et al. teaches, "The PBX/ACD monitors the queue and determines when the call is ready to be handled by the next available attendant. Once an attendant is available to handle the call, a disconnect warning is preferably played to the caller, and the caller can choose when to have the call transferred to the appropriate attendant console..." (See *Summary, Col. 3, lines 29-35*).

It would have been obvious to one of ordinary skill in the art at the time the invention was made, to modify Busey et al. by adding a disconnect announcement

Art Unit: 2642

when the call is ready to be handled by a next available attendant; and thus in this manner allow the caller with means to decide if he or she wants the call transferred to the aforementioned attendant or wish to continue interacting with other on-hold services.

6. Claims 8, 18 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Busey et al. (US 6,665,395) in view of Walker et al. (WO 98/35507).

Busey et al. system lacks the limitation specifying "returning an unused portion of said advancement token to a promotion system...".

Walker et al. teaches, that for example, a credit given to a caller's charge card or "account number" (i.e. promotion system)(See *Summary, page 4, line 2-3*). It is well known, that various companies allow a customer to ask for a credit refund, if for example, thus, it would have been obvious to one of ordinary skill in the art to modify Busey's et al. system in view of Walker and in this manner provide a credit or refund to a customer (i.e. caller) that is not satisfied with the service (i.e. did not move up as expected, waited a longer time, etc).

7. Claims 31-32, 34-38, 43-44, 46-50 and 54-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Busey et al. (US 6,665,395) in view of Philonenko (US 2002/0131399).

As for claim 34, Busey et al. disclose the system as claimed except for the caller earning advancement on calling queue based on caller's participation on a survey.

Philonenko teaches, "...if the client is willing to take a certain survey, or agrees to participate in a study, or perhaps agrees to listen to specific advertising during the same contact period then his or her queue position can be advanced even more." (See *Description, P. 0150, lines 9-13*).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Busey's et al. system by allowing the caller to advance his or her position in a queue if the caller is willing to take a survey, as taught by Philonenko, and thus in this manner allow the customer to move up in the queue without having to make a monetary contribution.

Claims 35-36, 46-48 and 55 are rejected for the same reasons as claim 34.

As for claim 31, Walker et al. disclose the system as claimed except for enabling the caller to participate in a competition for adjustment of position within said hold queue, monitoring the results of said competition, wherein said result comprises whether said caller wins said competition and wherein competitors are from among a general audience of callers.

Philonenko teaches, "In one embodiment of the present invention, communication channels with each client on queue can be established so that clients may actually bid against each other for a better queue position in a true sense of auctioneering."

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Walker's et al. system by adding the bidding competition;



Art Unit: 2642

and thus in this manner allow the client (i.e. caller) to move the winning caller to move up the queue list.

Claims 32, 43-44 and 54 are rejected for the same reasons as claim 31.

As for claims 37-38, Busey et al. disclose the system as claimed except for enabling caller to designate a portion of a membership account value to be applied to an adjustment of said position of said call; monitoring said result of said designation, wherein said result comprises an adjustment redemption for said portion of said membership account value; and enabling said caller to add to said membership account value by participating in promotional activities at a time at least one from among before said call is placed and after said call is placed.

Philonenko teaches, "...clients are prioritized according to whether or not they will register with or become members of a service organization...if the client is willing...to listen to specific advertising during the same contact period then his or her queue position can be advanced even more."

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Busey's et al system by adding means to prioritize the call based on the client (i.e. caller) becoming member of an organization or listening to advertisement (i.e. promotional activities); and thus in this manner allow the caller to move up in the queue. The limitation also reads on Busey's et al. teaching about moving a customer up a queue or prioritizing their position based on a customer ranking level of service.

In reference to the membership account value, using a portion of this membership account value to move up the queue and adding value to membership account by participating on promotional offers; reads for example on member's club cards given by drugstores and supermarkets. The member can add value to his or her card by buying specified products as marked down on a shopper (or online) and later redeem the gained value. While this is not directly related to calls on queue, it would have been obvious to one of ordinary skill to apply the same "member's club card" concept to the claimed invention.

Claims 49-50 and 56 are rejected for the same reasons as claims 37-38.

8. Claims 5 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Busey et al. (US 6,665,395) in view of Walker et al. (US 6,178,240) as applied to claims 4 and 14, and further in view of Philonenko (US 2002/0131399).

The same teachings and reasons for combination as those applied to claim 31 apply to claims 5 and 15.

9. Claims 30 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Busey et al. (US 6,665,395) in view of Johnson et al. (US 2002/0196927).

Art Unit: 2642

Busey et al. disclose the system as claimed except for receiving said at least one call transferred from said call hold queue from among a plurality of independent call hold queues each representative of one from among a plurality of vendors.

Johnson et al. teach, "The Controller can link several ACDs to a single call and manage the hand-offs based on the caller's input and the individual ACD response. The appropriate ACD can be one of several ACDs of one customer, such as United Airlines, and/or for selecting an ACD among ACDs for a plurality of customers, (e.g., Hilton Hotel Company, United Airlines, Avis Car Rental)." (See *Summary*, P. 007).

It would have been obvious to one of ordinary skill in the art at the time of the invention, to modify Busey's et al. system by adding a controller that can select an ACD from among a plurality of companies, such as Hilton Hotel, United and Avis, as taught by Johnson et al; and thus in this manner allow the call to be transferred to the appropriate attendant, based on the caller's input.

10. Claims 33 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Busey et al. (US 6,665,395) in view of Philonenko (US 2002/0131399), as applied to claims 31-32, 43-44 and 54, and further in view of Farfan (US 5,828,735).

The combination of Busey et al. and Philonenko teaches the system as claimed, except for enabling said caller to participate in said competition, wherein options for types of said competition comprise at least one from among a trivia game, a card game, a random luck game, logic game, and a word game.

Art Unit: 2642

Farfan teaches, "...an on-hold service that provides the person placed on hold with the ability to engage in a game activity while on-hold, rather than suffer the discontent associated with being placed on hold and having nothing to do..." (See *background, Col. 1, lines 36-40*). The system taught by Farfan uses "bet on a card" game software (See *Description, Col. 5, lines 25-26*).

It would have been obvious to one of ordinary skill in the art at the time the invention was made, to modify the combination of Busey et al. and Philonenko by adding a card software game, as taught by Farfan; and thus in this manner provide the caller with the ability to engage in a game activity while on hold, rather than suffer the discontent associated with being placed on hold and having nothing to do.

### ***Response to Arguments***

11. Applicant's arguments with respect to claims 1-57 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Burg et al. (US 6,738,473) teaches a call queuing system in which a customer may request to advance his or her call up a queue.


Art Unit: 2642

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marie C. Ubiles whose telephone number is (703) 305-0684. The examiner can normally be reached on 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad Matar can be reached on (703) 305-4731. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Marie C. Ubiles  
November 23, 2004.

  
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Application/Control Number: 10/004,664  
Art Unit: 2642

Page 13